

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

ASHLEY F. CUMMINGS,

Plaintiff,

v.

**BIGNAULT & CARTER, LLC; W.
PASCHAL BIGNAULT; and LORI A.
CARTER,**

Defendants.

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**Civil Action File No.
4:18-cv-00244-WTM-JEG**

DECLARATION OF MARCUS G. KEEGAN

My name is Marcus G. Keegan and I am a Partner with the Keegan Law Firm, LLC. Pursuant to 28 U.S.C. § 1746, I give this declaration based upon my personal knowledge.

1. Licensure and Experience

I am an attorney licensed to practice law in the State of Georgia. I was admitted to practice in Georgia in 2002 following my graduation from Emory Law School. I have nearly seventeen (17) years of continuous full-time experience as a trial lawyer. I specialize in employment law, including matters brought under civil rights statutes and constitutional claims. In addition to practicing in State and Superior Courts, I am admitted to practice, and have regularly practiced, in the State

appellate courts, the United States District Court for the Southern District of Georgia, the United States District Court for the Middle District of Georgia, the United States District Court for the Northern District of Georgia, and the Eleventh Circuit Court of Appeals.

2. Litigation Experience

When I first graduated from Emory Law School I went to work as trial attorney for the U.S. Equal Employment Opportunity Commission (“EEOC”), Atlanta District Office. While with the EEOC, I litigated employment cases throughout Georgia’s federal Courts.

Previously, I was first certified as a mediator in 1999 in the State of Arizona. In 2012, I obtained my second mediation certification in Georgia. Some of my honors include being rated “AV” Preeminent by Martindale-Hubbell as well as being selected by Super Lawyers as a Rising Star in 2011-2012; a Super Lawyer from 2016-2019; and, as a Top 100 Lawyer in 2018 and 2019. I am a member of the National Black Lawyers, Top 100 and have an AVVO rating of 10.0, superb. Additionally, I am a mentor with the State Bar of Georgia and a frequent speaker at the various Labor & Employment seminars throughout Georgia.

The majority of my practice involves cases brought under federal employment and civil rights statutes, including Title VII, Section 1981, Section 1983, the Family and Medical Leave Act and the Fair Labor Standards Act. Because of the nature of

my practice, I have experience in submitting fee petitions in employment and civil rights cases.

3. Hourly Rates in Savannah and Atlanta

Both in my own practice, and from my experience in litigating cases in the state and federal courts of Georgia, I am familiar with the fees generally charged by attorneys in the Savannah area in litigation matters. My standard hourly rate for clients in employment and civil rights litigation is currently \$420.00 per hour in the Metro Atlanta area. This is a rate I bill in prosecuting and defending FLSA cases, as well as to other clients who regularly pay on an hourly basis for litigation matters. I also have performed work on an hourly basis for clients in the Savannah area on FLSA matters at rates ranging from \$300-\$360 per hour in the past four years.

In assessing Mr. Pankey's hourly rate, I rely upon my knowledge of hourly rates charged by employment litigators in the Savannah and Atlanta areas, as well as my experience conducting mediations in Georgia. I am familiar with the hourly rates charged by attorneys in Savannah. Mr. Pankey's \$450.00 hourly rate for a 27 year practicing attorney with his excellent credentials is well within the range of fees customarily charged in Savannah.

The Daily Report regularly publishes the hourly rates charged by attorneys in the Atlanta legal market. In my experience, *The Daily Report* is a common and

reliable source of information of this type for attorneys and law firms in Atlanta. Attached to this Declaration are rates published by *The Daily Report* for multiple years. Attachment A is a summary of local hourly rates for employment attorneys, printed on March 25, 2013. That publication indicates that attorney Matthew W. Clarke, a partner with the law firm of Smith, Gambrell & Russell, who graduated from law school the same year as Mr. Pankey (1992), charged the hourly rate of \$465.00 per hour in 2010. Daniel R. Beale, a partner with McKenna Long & Aldridge, who was also admitted to practice in 1992, charged \$450.00 per hour in 2011. *Id.* Henry M. Perlowski, who was admitted to practice in 1993, charged \$440.00 per hour in 2011. *Id.*, p. 3. Mr. Clarke, Mr. Beale, and Mr. Perlowski all practice in employment litigation.¹

Attorneys with less experience charge higher hourly rates. For example, Stanley A. Seymour, an associate at Kilpatrick, Townsend & Stockton, who graduated from law school in 2001, charged \$415.00 per hour in 2011; while Brett E. Coburn, a partner at Alston & Bird who graduated from law school and was admitted to practice in 2003, billed \$470.00 per hour in 2012. *Id.*²

¹ Practice areas and education can be found at the attorneys' biographies from their respective firm websites (www.agg.com/Henry-Perlowski/; www.mckennalong.com/professionals-403.html; and www.sgrlaw.com/attorneys/profiles/mclarke/.)

² Graduation dates or Bar admission dates can be obtained from relevant law firm websites, or the Georgia Bar Association website (www.gabar.org).

According to *The Daily Report's* summary of hourly rates in Atlanta reported the trend regarding attorneys' fees in the Atlanta market, the average billing rate in 2010 for partners in Atlanta was \$482.00 per hour. See Attachment B, p. 2 ("Sticker Prices: Atlanta Lawyers' Hourly Rates," Daily Report (March 25, 2013)).

4. Counsel's Claimed Hourly Rate

I am very familiar with the reputation, litigation skills and legal ability of Larry A. Pankey, having observed many employment cases in which he was plaintiff's counsel. We have very similar practices, work at similar firms and litigate against many of the same employers. I believe Mr. Pankey's billing rate in this case, \$450.00, is well within the range for lawyers of comparable skill and experience in the Savannah legal market.

Based on the information set forth above in Paragraph 3, as well as my personal knowledge about hourly rates charged and awarded in employment and civil rights cases, Mr. Pankey's claimed hourly rate is reasonable in the Savannah market.

5. The Itemized Statement of Time

I reviewed the PACER Docket Report in this case, as well as the most significant papers filed in the case. I also reviewed Mr. Pankey's "Invoice for Legal Services" which includes his time and activity summary.

Based on the foregoing, because the case settled for the gross amount of \$45,000.00, it is my opinion that Mr. Plaintiff's request for 22.2 hours at \$450.00 an hour for a total \$9,990.00 attorney's fee, and \$652.01 in costs and expenses, for a total award of \$10,642.01 is customary, reasonable and not excessive. The amounts claimed by Mr. Pankey are reasonable and fair by any measure. The "Invoice for Legal Services" in the amount of \$10,642.01 reflecting his time entries is similarly reasonable and does not appear to be excessive.

It is my opinion that the type of legal work performed, the time spent on discrete events during the case, and the result obtained justify a full fee award based on a rate at the high end of the market range for Mr. Pankey, particularly given his reputation, skill and experience in employment discrimination litigation.

6. Other Considerations

Attorneys pursuing employment cases on contingent fees take enormous risk. The fairly exacting standards applied to pleading and proof in employment cases, including those under the FLSA, deter many practitioners from representing employees on a contingent basis. Unfortunately, most employees cannot afford to pursue cases by retaining attorneys on an hourly basis and finding a qualified attorney willing to pursue a case on a contingent basis is not easy. Significantly, in this case, Mr. Pankey pursued a local Savannah firm and in my experience, it is hard to find an attorney to take on another law firm for FLSA cases.

This case demonstrates why taking on a case without any upfront guarantee of compensation is not attractive to many lawyers. Nonetheless, the time entries in this case demonstrate that Mr. Pankey was judicious in his expenditure of time and expense in pursuing the case. Even though the Plaintiff was not paying on an hourly basis, Mr. Pankey was efficient in his use of time. It has been my experience that FLSA claims are also difficult to litigate because attorney's fees are often in excess of the amount of wages and liquidated damages in dispute.

Attorneys acting as private attorneys general, willing to take on unpopular causes based on a statutory fee award, are critical to the success of our civil rights laws. Rewarding risky work that is reasonable as to the expenditure of time and the rates charged is essential to the operation of a judicial system that serves all litigants, regardless of their social status and financial means.

7. Compensation

I have not sought any compensation for my review of this file or for the preparation of my Declaration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 12th day of April 2019.

/s/ Marcus G. Keegan

Marcus G. Keegan

ATTACHMENT A

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Name	Title	Firm	City	2012 Rates	2011 Rates	2010 Rates	2009 Rates	2008 Rates	2007 Rates	2006 Rates
Beale, Daniel R.	Partner	McKenna Long and Aldridge	Atlanta	450	440					
Berger, Gordon M.	Shareholder	Wagner Johnston and Rosenthal	Atlanta	335						
Boyd, Matthew A.	Of Counsel	King and Spalding	Atlanta				530			
Brown, Daniel B.	Managing Shareholder	The Health Law Partners	Atlanta				425	425	415	
Buffenstein, Daryl	Partner	Paul, Hastings, Janofsky and Walker	Atlanta						535	
Byrnside, Ian	Associate	McKenna Long and Aldridge	Atlanta	315	285					
Clark, Brenna M.	Associate	Mazursky Constantine	Atlanta	235						
Clarke, Matthew W.	Partner	Smith, Gambrell and Russell	Atlanta			465	465	385		
Coburn, Brett	Associate	Alston and Bird	Atlanta	470	470					
Constantine, Randall A.	Partner	Mazursky Constantine	Atlanta	525						
DeHaven, Dara	Shareholder	Ogletree, Deakins, Nash, Smoak and Stewart	Atlanta						350	
Draper, Clare	Partner	Alston and Bird	Atlanta	610			550			
Fogarty, Kimberly	Associate	Alston and Bird	Atlanta						285	
Gerakitis, Richard	Partner	Troutman Sanders	Atlanta				450			
Gordon, Jeffrey	Associate	Ogletree, Deakins, Nash, Smoak and Stewart	Atlanta						210	
Hawkins, Charles A.	Partner	Troutman Sanders	Atlanta				440			
Holmes, Marilee	Associate	Alston and Bird	Atlanta	405						
Holmes, Marilee	Associate	Alston and Bird	Atlanta	405						
Infinger, Glenn T.	Partner	Mazursky Constantine	Atlanta	525						
Johnston, Michael W.	Partner	King and Spalding	Atlanta	730			630			
Kaufman, Michael D.	Partner	Troutman Sanders	Atlanta		545	495	460			
Keating, Adam C.	Associate	Ford and Harrison	Atlanta	245						
King, Teri Forehad	Partner	Mazursky Constantine	Atlanta	358						
Klein, Kristina N.	Associate	Troutman Sanders	Atlanta	335						

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Koelker, Kelly

Counsel

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Koenig, Karen	Counsel	Paul, Hastings, Janofsky and Walker	Atlanta						500	
Korhonen, Jana L.	Associate	Troutman Sanders	Atlanta		325	300	275			
Leonard, Erika L.	Partner	Paul, Hastings, Janofsky and Walker	Atlanta	685						
Mario, Scott B.	Counsel	King and Spalding	Atlanta	465						
Marks, Lindsay S.	Associate	Troutman Sanders	Atlanta		350					
Marlowe, Deborah	Partner	Paul, Hastings, Janofsky and Walker	Atlanta						550	
Marshall, Edward A.	Associate	Arnall Golden Gregory	Atlanta					300		
Martin, Matthew Blake	Associate	Ford and Harrison	Atlanta	275	240					
Miner, Kevin	Associate	Paul, Hastings, Janofsky and Walker	Atlanta						375	
Newman, Mark J.	Partner	Troutman Sanders	Atlanta	460			405			
Patton, Glenn	Partner	Alston and Bird	Atlanta	495					425	
Payne, Erin L.	Associate	Smith, Gambrell and Russell	Atlanta			300	300	250	230	
Perlowski, Henry M.	Partner	Arnall Golden Gregory	Atlanta		440	425				
Putnal, J. David	Partner	Mazursky Constantine	Atlanta		470					
Rambow, Rebecca	Associate	Paul, Hastings, Janofsky and Walker	Atlanta						230	
Riordan, Robert P.	Partner	Alston and Bird	Atlanta			560				
Russotto, Sarina M.	Associate	Arnall Golden Gregory	Atlanta		345	325				
Ryan, Andria Lure	Partner	Fisher and Phillips	Atlanta			400	390			
Seymour, Stanley A.	Associate	Kilpatrick Townsend and Stockton	Atlanta		415					
Shelfer, Jennifer L.	Associate	Arnall Golden Gregory	Atlanta		260	245				
Sherman, Kyle	Partner	Paul, Hastings, Janofsky and Walker	Atlanta						485	
Walls, Tobin R.	Partner	Mazursky Constantine	Atlanta		395					
Weidenbaum, Samantha	Associate	Paul, Hastings, Janofsky and Walker	Atlanta						395	
Whitehead, Steven J.	Attorney	Taylor English Duma	Atlanta		300					

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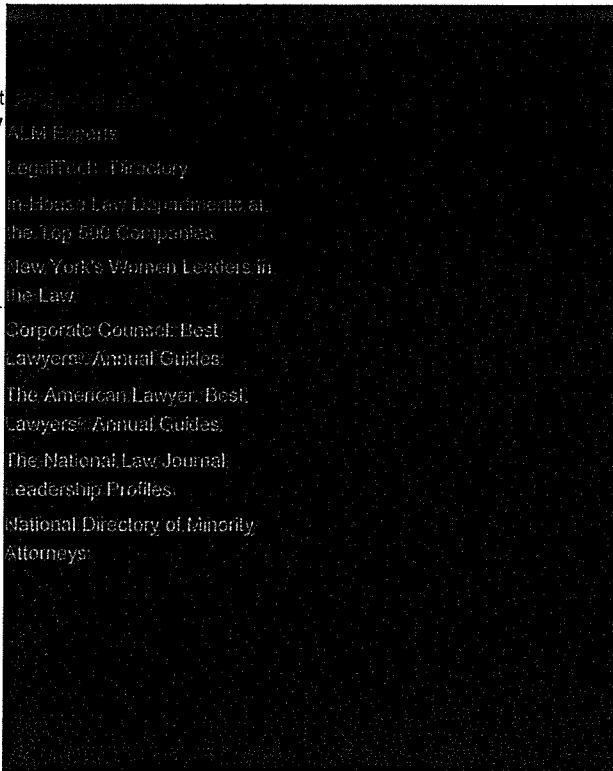
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